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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

LACY L. THOMAS; an individual,

Plaintiff,

vs.

SCOTT S. MITCHELL; an individual,
CLARK COUNTY, NEVADA; CLARK
COUNTY DISTRICT ATTORNEY'S
OFFICE; "DOES" 1 THROUGH 10,

Defendants.

Case No. 2:18-cv-1615-RFB-VCF

**PLAINTIFF'S MOTION TO
RECAPTION THE CASE AND FOR
LEAVE TO FILE FIRST AMENDED
COMPLAINT**

Pursuant to Federal Rule of Civil Procedure ("FRCP") 15, Plaintiff, Lacy L. Thomas, respectfully requests that the Court permit him to file a First Amended Complaint ("FAC"), a proposed copy of which is attached and filed herewith as part of the Appendix to this motion. The FAC adds no new claims or parties to this litigation and therefore permitting it to be filed will not prejudice the sole remaining Defendant in this action, Clark County, Nevada.

In support of this motion, Plaintiff relies upon the memorandum of points and authorities below, all papers on file herein and any additional arguments the Court may permit.

MEMORANDUM OF POINTS AND AUTHORITIES

Under FRCP 15, “[t]he Court should freely give leave to amend [a Complaint] when justice so requires.” See Morongo Band of Mission Indians v. Rose, 893 F.2d 1074, 1079 (9th Cir. 1990). This policy is to be applied with extreme liberality. DCD Programs, Ltd. v. Leighton, 833 F.2d 183, 186 (9th Cir. 1987). A delay in seeking amendment, “while not alone enough to support denial,” may be of some relevance. Morongo, 893 F.2d at 1079. But the key factor a trial court will look at is whether any significant prejudice will result by permitting amendment. Id.

In this case, Plaintiff filed his Complaint initiating this litigation on August 27, 2018. See ECF No. 1. The Complaint named three Defendants: Scott Mitchell, the Clark County District Attorney’s Office and Clark County, Nevada. Following a hearing on June 24, 2019 (ECF No. 23), the Court dismissed Mr. Mitchell and the District Attorney’s Office as Defendants. Accordingly, the only remaining Defendant in this case is Clark County, Nevada.

In light of the foregoing, Plaintiff seeks to recaption this case to reflect that Clark County, Nevada is the sole Defendant in this civil rights case. Additionally, Plaintiff seeks leave to file a FAC reflecting that Clark County is the sole Defendant in this case. The proposed FAC submitted herewith adds no new parties or claims. Instead, it merely “cleans up” the original Complaint through subtraction and, should this matter proceed to trial, properly reflects the facts, defendants and causes of action in this case. Given this fact, Defendant Clark County will not be prejudiced in any way by allowing the filing of the FAC.

1 For the reasons set forth above, the Court should permit Plaintiff to file the proposed
2 FAC submitted herewith. The Court should also recaption this case to reflect that Clark County
3 is the only remaining Defendant in this case.

4 Respectfully submitted,

5 /s/ Paul S. Padda
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7 Paul S. Padda, Eq.
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12 Attorney for Plaintiff

13 Dated: July 20, 2021

14 CERTIFICATE OF SERVICE

15 Pursuant to the Federal Rules of Civil Procedure, the undersigned hereby certifies that on
16 this day, July 20, 2021, copies of the foregoing document were served upon all parties having an
17 interest in this matter through the Court's CM/ECF electronic filing system.

18 /s/ Paul S. Padda
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